

EXHIBIT 18

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES,) 1:23-cv-00108-LMB-JFA
et al.,)
)
Plaintiffs,)
)
vs.)
)
GOOGLE LLC,)
)
Defendants.)

- HIGHLY CONFIDENTIAL -

VIDEOTAPED DEPOSITION OF
CHRISTOPHER KARPENKO
August 10, 2023
9:35 a.m.

Reported by: Bonnie L. Russo
Job No. 6031969

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Videotaped Deposition of Christopher Karpenko
held at:

Paul, Weiss, Rifkind, Wharton & Garrison, LLP
2001 K Street, N.W.
Washington, D.C.

Pursuant to Notice, when were present on behalf
of the respective parties:

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APPEARANCES:

On behalf of the Plaintiffs:

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On behalf of the Defendant:

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APPEARANCES (CONTINUED):

Also Present:

Glen Fortner, Videographer
Michael Weaver, United States Postal Service

Also Present Via Remotely:

Julia Wood, DOJ
Sean Carman, DOJ
Katherine Clemens, DOJ
Jeannie S. Rhee, Paul, Weiss, Rifkind, Wharton
& Garrison, LLP

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1 January of 2023 regarding ad spend?

2 A. That may be difficult for me to
3 answer because the UM team is about media and
4 ad spend and it could encompass almost anything
5 tied to our advertising efforts.

6 Q. Is it a normal part of your daily
7 work -- is it a routine part in your work to
8 have a one-on-one conversation with Ms. Catucci
9 about ad spend?

10 A. It would not be an exception.

11 Q. Okay. And subsequent to January of
12 2023, have you requested information from
13 United -- Universal McCann based on a
14 conversation with your counsel?

15 A. I'm not sure -- I'm not sure about
16 the question. Could you help me.

17 Q. Yeah. After the complaint in this
18 case was filed in January of 2023, have you
19 made requests to Universal McCann for
20 information in order to participate in this
21 lawsuit?

22 MR. RYAN: Counsel, I'm going to

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1 object. That's calling for privileged -- it's
2 calling for privileged communication. I would
3 --

4 MS. GOODMAN: It is precisely the
5 same kind of testimony you've already permitted
6 him to provide. I am not asking for an
7 instance --

8 MR. RYAN: Well, that was a mistake
9 on my part.

10 MS. GOODMAN: -- I am asking a
11 yes-or-no question, which is whether he has
12 asked -- and I'll restate my question.

13 BY MS. GOODMAN:

14 Q. Mr. Karpenko, after January of 2023,
15 have you requested information from Universal
16 McCann as a result of a conversation with your
17 counsel?

18 A. I would say I have requested and
19 received various information from Universal
20 McCann both tied to privilege and not tied to
21 privilege.

22 MS. GOODMAN: We're going to move to

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1 compel on those communications too.

2 BY MS. GOODMAN:

3 Q. Prior to January of 2023 in the
4 course of your work at the United States Postal
5 Service, did you ever develop any concerns that
6 Google was engaging in anticompetitive conduct?

7 A. I was unaware of any anticompetitive
8 conduct from Google.

9 Q. And in the course of your work as a
10 -- the executive director for brand marketing
11 at the postal service, did you ever develop any
12 concerns that you paid super-competitive prices
13 for Google products?

14 A. Can you clarify the -- the question.

15 Q. Yeah. In the course of your work as
16 executive director for brand marketing and
17 participating as an advertiser in the
18 advertising space, did you ever develop any
19 concerns that the postal service was paying too
20 much money for products or services from
21 Google?

22 MR. RYAN: Object to the form.

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1 THE WITNESS: In my role I have a
2 responsibility for hundreds of millions of
3 dollars of budget, so I am always keeping top
4 of mind that we're spending our investments or
5 our moneys appropriately and getting the best
6 value for that.

7 So from a macro perspective, we're
8 always looking at trying to get the best value.

9 BY MS. GOODMAN:

10 Q. I appreciate that answer. And my
11 question is a bit more specific.

12 Understanding that context that
13 you're always trying to get the best value for
14 USPS ad spend, my question is: Did you ever
15 develop any concerns in the course of your work
16 as executive director for brand marketing that
17 the postal service was paying too much money
18 for products or services offered by Google?

19 A. So --

20 MR. RYAN: Object to form.

21 THE WITNESS: So whether it's Google
22 or another entity, we -- we have a fixed budget

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1 and we have to work within what those rates are
2 offered for our -- for media. It could be in
3 any media format.

4 We take that budget. We take our
5 desired outcome, and we try to apply an
6 omni-channel approach to maximize our efforts.
7 If we find that something isn't giving us the
8 return on our investment or we are finding
9 other channels that might be more conducive, we
10 reallocate, and then we assign it to the UM
11 to -- to purchase for us.

12 We use a term called "return on ad
13 spend" that helps us try to maximize our
14 efforts in a way that if we're given a rate, we
15 are not necessarily able to negotiate with, so
16 we have to figure out how to have the same
17 impact within our campaigns for the limited
18 amount of dollars that we have.

19 BY MS. GOODMAN:

20 Q. All right. So based on your prior
21 two answers, I'm understanding your testimony
22 that you never developed a specific concern

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1 that the postal service was paying too much
2 money for products or services offered by
3 Google.

4 Am I understanding your testimony
5 correctly that you never had such a specific
6 concern as to Google?

7 MR. RYAN: Objection to form and
8 foundation.

9 THE WITNESS: So Google offers a lot
10 of products and services. Our interaction with
11 Google is fairly vast at the postal service.
12 We do things beyond advertising and marketing
13 with them.

14 So when you're asking about products
15 and services it's a pretty broad ask for me.
16 So could you help narrow it down for me.

17 BY MS. GOODMAN:

18 Q. Yes. My question is specific to
19 Google products or services relating -- with
20 respect to digital advertising. Okay. So I
21 don't care about Gmail or Google Workspace or
22 Google Drive.

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1 Specific to products and services
2 related to digital advertising, did you, in
3 your capacity as executive director for brand
4 marketing at the postal service, based on your
5 knowledge and experience executing ad
6 campaigns, ever develop a specific concern that
7 the postal service was paying too much money
8 for Google products or services related to
9 digital advertising?

10 A. So I might refrain that to say we --

11 Q. Sir, I'm sorry to interrupt you, but
12 my question is my question, and I am asking you
13 to answer it as I have posed it rather than
14 reframing it and answering a different
15 question.

16 So can you please try to --

17 MR. RYAN: The witness is trying to
18 answer your question, Martha.

19 BY MS. GOODMAN:

20 Q. -- to answer my question as to any
21 specific concern as to Google specifically and
22 the prices paid for the use of Google products

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1 or services for digital advertising.

2 MR. RYAN: I'm going to object to
3 form. And the witness -- let the witness try
4 to answer the question.

5 THE WITNESS: The postal service
6 doesn't directly use products from Google such
7 as DV360 for placement of advertising. We pay
8 to place advertising on Google's environment so
9 that we can reach our customers. I can't -- I
10 can't evaluate their products that enable one
11 to put media onto the various sites.

12 BY MS. GOODMAN:

13 Q. And why can't you evaluate Google's
14 products that enable one to put media onto the
15 various sites?

16 A. The postal service created a
17 contract with UM as a media agency of record
18 for media.

19 UM then places on behalf of the
20 postal service media in various environments,
21 and if they are utilizing Google's products to
22 do that, we don't -- we don't dictate that and

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1 we don't -- we don't really have a lot of
2 visibility on that part of the business.

3 Q. In your capacity as executive
4 director for brand marketing for the postal
5 service, do you have any basis to know how much
6 money the postal service has paid to Universal
7 McCann for the use of Google products or
8 services related to digital advertising?

9 A. I don't have knowledge of the fees
10 associated to use the products as much as our
11 organization has visibility on the media spent
12 in place for our various campaigns.

13 Q. And so am I understanding you
14 correctly that you do not know at a more
15 granular level the fees paid by Universal
16 McCann, if any, directly to Google for the
17 placement of USPS digital advertising?

18 MR. RYAN: I'm going to object to
19 form and foundation.

20 THE WITNESS: I'm unaware of the
21 specific fees that UM and Google may take or
22 share in -- in that sense. I am more aware of

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1 the media dollars spent that we -- we control
2 when we give over to Universal McCann.

3 BY MS. GOODMAN:

4 Q. Okay. Prior to January of 2023, had
5 you been aware of any investigation by the
6 Department of Justice into Google's advertising
7 businesses?

8 MR. RYAN: Objection to form.

9 THE WITNESS: I was not aware of
10 anything.

11 BY MS. GOODMAN:

12 Q. Okay. Have you received a
13 litigation hold related to this lawsuit?

14 A. I believe I've received a litigation
15 hold for this effort.

16 Q. Do you recall when you received a
17 litigation hold for this effort?

18 A. I don't.

19 Q. Do you recall whether it was before
20 or after the filing of the complaint?

21 A. I don't know.

22 Q. So do you know whether it was before

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1 or after January 24th of 2023?

2 A. I don't know.

3 Q. Okay. What is your understanding of
4 what this lawsuit is about?

5 A. It appears there's a complaint that
6 has been filed alleging Google having a
7 monopolistic market in being able to provide
8 and purchase media.

9 Q. And what is your understanding of
10 the United States Postal Service's role in this
11 lawsuit?

12 A. Postal service is a part of the
13 federal government. Postal service has
14 purchased media.

15 I am here today to answer your
16 questions.

17 Q. Do you have an understanding whether
18 the United States Postal Service would gain to
19 recover any money as a result of this lawsuit?

20 MR. RYAN: I am going to instruct
21 the witness -- to the extent that you have
22 knowledge solely because of conversations with

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1 counsel, not to answer the question.

2 THE WITNESS: I can't answer that
3 question.

4 BY MS. GOODMAN:

5 Q. And is that because you only could
6 answer it based on conversations with counsel?

7 A. I also am not the person assessing
8 damages, so I -- I wouldn't -- I wouldn't be
9 able to tell you what that expectation is.

10 Q. Okay. You read the complaint in
11 this -- filed in this lawsuit. Am I correct in
12 that?

13 A. Yes.

14 Q. Did you understand it?

15 A. To the best of a layperson's
16 perspective.

17 Q. You're not just a layperson,
18 however, right? You are participating in the
19 buying of digital advertising on behalf of the
20 U.S. Postal Service, right?

21 A. I participate in buying the --
22 buying media for the postal service, but I am

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1 media channels for that.

2 Depending on what the campaign is,
3 we may use different mixes of those media
4 channels and we might not use all of those
5 media channels. We use variations of those.
6 And then we assess based on our KPIs if that
7 campaign is being successful.

8 Q. When you use physical mail as part
9 of your advertising efforts, does the postal
10 service pay for that use?

11 A. Yes.

12 Q. Okay.

13 A. We have to allocate those costs. We
14 can't frank it.

15 Q. Not like our senators in congress?

16 A. Different.

17 Q. Congressional representatives?

18 A. Yes, we allocate our costs.

19 Q. Is the postal service a two-sided
20 platform?

21 MR. RYAN: Objection to form and
22 foundation.

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1 THE WITNESS: Could you help clarify
2 what you are referring to?

3 BY MS. GOODMAN:

4 Q. Fair. Have you heard the term
5 "two-sided platform"?

6 A. Not enough to just come off and
7 answer -- to give you an answer, so that's why
8 I am asking.

9 Q. Sure. A two-sided platform is one
10 that mediates between two sides of the market
11 connecting business with consumer for example.

12 MR. RYAN: Objection to form and
13 foundation.

14 THE WITNESS: Could you help clarify
15 that more.

16 BY MS. GOODMAN:

17 Q. Yes.

18 A. Sorry.

19 Q. So using the definition that a
20 two-sided market is one that mediates between
21 two sides of a market connecting, in the case
22 of the postal service, a business with a

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1 consumer, would you agree that the postal
2 service is a two-sided platform?

3 MR. RYAN: Objection to form and
4 foundation.

5 THE WITNESS: The postal service is
6 an infrastructure that connects people to
7 people, businesses to businesses, businesses to
8 people, people to businesses. So I'm not sure
9 if that constitutes two sided as much as
10 environment where it enables connectivity.

11 BY MS. GOODMAN:

12 Q. And is that similar to like the
13 social networks of today, like, Facebook that
14 talks about enabling connectivity among people?

15 MR. RYAN: Objection to form and
16 foundation.

17 THE WITNESS: I am thinking through
18 that. Environments such as social media and
19 network have people that opt in and, you know,
20 those environments have algorithms and networks
21 that connect people, so you have friends or
22 family that do that.

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1 The postal service is more universal
2 in that sense. We will deliver to an address.
3 We will deliver to an address, but we haven't
4 decided who is who in that sense. We don't --
5 we don't pick and choose who you receive your
6 mail from.

7 BY MS. GOODMAN:

8 Q. Can advertisers use direct mail to
9 specifically target a particular audience they
10 are trying to reach?

11 MR. RYAN: Objection to foundation.

12 THE WITNESS: Mail can be targeted,
13 yes.

14 BY MS. GOODMAN:

15 Q. And digital advertising can be
16 targeted as well, correct?

17 MR. RYAN: Objection to form and
18 foundation.

19 THE WITNESS: Digital advertising
20 does have the ability to reach specific
21 audiences or potentially down to individuals.

22 BY MS. GOODMAN:

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Q. All right. So we talked a little bit about your contract with your media agency of record, Universal McCann, so let's shift a bit to that.

How does the contracting process work with Universal McCann to your knowledge?

A. Could you -- could you help me understand where in the contracting component you want to -- you'd like to start.

Q. Sure. Let's start at the top, where the postal service enters into a contract with Universal McCann.

Is that -- that is a multiyear contract, right?

MR. RYAN: Objection to foundation.

THE WITNESS: Yes. The postal service puts out an RFP, competitive bid for -- in this case, an agency of record for media spend and is successful awarding. In this case, Universal McCann received that award, I will say around 2012, '13 depending on when you award and sign.

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It is handled through our supply management team for contractual obligations and parameters around what that is, so marketing is the business owner and it's supply management and acts as the contract for us.

BY MS. GOODMAN:

Q. And the multiyear contract with Universal McCann, that was renegotiated or reentered into in 2022; is that correct?

MR. RYAN: Objection to form and foundation.

THE WITNESS: UM has -- potentially, it was a five-year extension from the original contract.

BY MS. GOODMAN:

Q. So when you're referencing the original contract, you are referencing the one from 2012, '13?

A. Yes.

Q. And how long did that contract last?

A. It was --

MR. RYAN: Objection. Foundation.

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THE WITNESS: It was -- the contract for UM was awarded in -- it's roughly ten years. Within that though, there were every -- every X amount of period, there were renewal options that we could enact up to ten years.

BY MS. GOODMAN:

Q. And so the ten years from 2012/13, that expired when?

MR. RYAN: Objection to form and foundation.

THE WITNESS: That contract was up on its extensions somewhere around '20, '22-ish.

BY MS. GOODMAN:

Q. Okay. And somewhere around 2022-ish, the postal service entered into another contract with Universal McCann, correct?

MR. RYAN: Objection. Form and foundation.

THE WITNESS: We ultimately extended that contract without competitive bid.

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BY MS. GOODMAN:

Q. Okay. Now, under the multiyear contract with Universal McCann, the postal service and Universal McCann agreed to a scope of work roughly every year; is that correct?

MR. RYAN: Objection to form and foundation.

THE WITNESS: We agreed upon -- every year we do review what type of scope of work we might be having with McCann or UM.

BY MS. GOODMAN:

Q. Is there a contracting process associated with the review of that scope of work every year with UM?

MR. RYAN: Objection. Foundation.

THE WITNESS: So the postal service has a main contract, in this case with Universal McCann, and then we have a scope of work that we work with for the year. That ties into what we would like to do tied to our media buying.

They are, in a general sort of way,

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1 a broken out into two elements, one is the
2 infrastructure of support that we get from the
3 COR group of people at UM. It's tied to people
4 on staff there that engage with the postal
5 service.

6 It talks about -- we talk about
7 strategy and we talk about how we are going to
8 optimize the budget that we get from our CFO to
9 use towards purchasing media for our various
10 campaigns. That part is probably the biggest
11 swing, the media buy is probably the bigger
12 swing than the base of employees that we have
13 working for us as suppliers or the UM team.

14 Our budget could be 140 million or
15 it could be a hundred million, and that creates
16 an opportunity for us to figure out how are we
17 going to do what campaigns and if we can do the
18 campaigns, to what level of investment we can
19 make and what channels we will use for that for
20 the year.

21 So there is a contract component
22 with supply management that we have to

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1 contractually have, and then -- with a CO, and
2 then we have a COR who makes sure that we work
3 through the scope of work that we are working
4 through, and the rest of the team engages with
5 UM to direct how we are going to leverage and
6 use media for the fiscal year.

7 BY MS. GOODMAN:

8 Q. And the supply management
9 representative at postal that you work with on
10 the UM contract, is that Mark Guilfoil?

11 A. Mark Guilfoil is the head of all of
12 supply management. Mark Guilfoil signs off on
13 large contracts. The Universal McCann contract
14 is a large contract for the postal service.
15 Probably a top ten.

16 Fuel, you know, air fleet, you know,
17 that we source out to, billions of dollars a
18 year, but advertising is a large portion of a
19 budget.

20 Q. Okay. Are you familiar with a task
21 order placement memorandum? Is that a type of
22 document you are familiar with?

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1 A. Yes.

2 Q. Okay. And what in your -- to your
3 knowledge, is an order placement memorandum?

4 A. It's a task order or it's a
5 modification to the task order.

6 Q. Just task order?

7 A. Is there a particular one you want
8 me to look at?

9 Q. Yeah, sure, since you are familiar.
10 I just tried to --

11 A. We issue a task order for -- we
12 issue -- the postal service issues a task order
13 for work to be done by -- by a supplier, and we
14 do have modifications to those as well,
15 depending on the needs of what we are trying to
16 do.

17 (Deposition Exhibit 40 was marked
18 for identification.)

19 BY MS. GOODMAN:

20 Q. And so I will hand you Exhibit 40,
21 USPS-ADS-592851 through 592863.

22 A. Thank you.

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1 Q. And this is an e-mail you received
2 attaching an order placement memo for UM Year
3 2.1, correct?

4 MR. RYAN: Can the witness have a
5 few minutes to examine the document.

6 Martha, while the witness is
7 examining the document after you finish asking
8 questions on this document, is that a
9 convenient time to take a break? Can we take a
10 break then?

11 MS. GOODMAN: Well, a question is
12 pending right now.

13 MR. RYAN: Sorry.

14 BY MS. GOODMAN:

15 Q. This is an e-mail you received
16 attaching an order placement memo for the UM
17 Year 2.1, correct?

18 A. 2.1.

19 Q. 2.1, correct?

20 A. 2.1. Yes.

21 Q. And what is the purpose of an order
22 placement memorandum?

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1 entity to see maybe if we could raise our cap
2 to become something that is actually seen when
3 somebody goes to search, so it would depend.

4 Q. So could you optimize -- when you
5 are monitoring a campaign and its performance
6 against your KPIs, could you optimize that
7 campaign's performance by moving money from,
8 for example, paid social into display?

9 MR. RYAN: Objection to foundation.

10 THE WITNESS: Possibly.

11 BY MS. GOODMAN:

12 Q. Why do you say -- when you say
13 "possibly," what do you mean?

14 A. I think it depends on the amount of
15 money that we have, how the channel is
16 performing, and does it make sense to move over
17 from one to another.

18 Q. Okay. You said historically, you
19 monitor your campaign's performance
20 approximately every two weeks.

21 Is that -- did you receive e-mails
22 from UM attaching what I saw labeled hot

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1 sheets. Does that sound familiar to you?

2 A. I recall --

3 MR. RYAN: Objection. Form.

4 THE WITNESS: I recall hot sheets.

5 I would have to see it though.

6 BY MS. GOODMAN:

7 Q. And how about flowcharts? Did UM
8 prepare flowcharts for postal service showing
9 campaign performance?

10 MR. RYAN: Objection to form.

11 THE WITNESS: I'd probably want to
12 see what your terminology is for flowcharts. I
13 have a whole different operational background
14 in my world that runs with that too.

15 BY MS. GOODMAN:

16 Q. Sure. I will hand you
17 USPS-ADS-492772 through 492780.

18 A. Thank you.

19 (Deposition Exhibit 43 was marked
20 for identification.)

21 BY MS. GOODMAN:

22 Q. And then --

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1 A. Oh, yes.

2 Q. So is this an e-mail attaching --
3 strike that.

4 Is the first attachment to this
5 e-mail a colored spreadsheet, a flowchart that
6 you have seen before?

7 A. Yes. It is historically in
8 electronic format and a little easier to
9 maneuver around, but yes, I am familiar with
10 this -- with this output.

11 Q. What is the purpose of this output
12 from your perspective?

13 A. This is part of our effort to flow
14 what our -- what some of our media will be for
15 timing and expenses based on campaigns that we
16 may be running, whether they're equity
17 campaigns or regional campaigns.

18 Q. And is it showing the -- sorry.

19 Let's just go to the third page of
20 the document with "display" at the top.

21 A. Okay.

22 Q. It has a pink and blue and orange

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1 box?

2 A. Yes. This is displaying as GM. It
3 is a general market.

4 Q. Okay.

5 A. HA is Hispanic and AA is African
6 American.

7 Q. And so you see under GM, there are a
8 lot of different companies named here.

9 What -- what services are these
10 companies providing the postal service through
11 Universal McCann?

12 A. Ultimately, they are enabling us to
13 provide some type of display advertising.

14 Q. So just one provider of display
15 advertising is Amazon, correct?

16 A. Amazon provides their own closed
17 system, so yes.

18 Q. And Media iQ, they are another
19 provider of display advertising that UM uses on
20 your behalf?

21 MR. RYAN: Objection as to form.

22 THE WITNESS: I believe so. I just

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1 don't know how specifically they use them.

2 BY MS. GOODMAN:

3 Q. Okay. And ad serving, the last in
4 that list, what does that mean to your
5 knowledge?

6 A. If I remember correctly, I believe
7 it was a cost to process and serve up the ads.

8 Q. And do you know to whom Universal
9 McCann was paying any ad service costs?

10 MR. RYAN: Objection to foundation.

11 THE WITNESS: Specifically, I
12 couldn't tell you how that was broken out.

13 BY MS. GOODMAN:

14 Q. And as part of your responsibilities
15 as executive director for brand marketing at
16 the postal service, was it important to you to
17 know specifically to whom Universal McCann was
18 paying any ad serving costs?

19 A. It was important for the postal
20 service to understand that that ad serving cost
21 was legitimate. To whom it went to, I wouldn't
22 be able to tell you and it was more of was it a

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1 legitimate fee to place maybe.

2 Q. As opposed to what provider they
3 selected?

4 A. As opposed to what provider, yes,
5 correct.

6 Q. And were these -- did you regularly
7 receive flowcharts like the one we are looking
8 at, in the course of your work as executive
9 director for brand marketing?

10 A. These would be modified throughout
11 the year specifically because our budgets might
12 get flexed throughout the year. Depending on
13 what campaigns we were running and how long we
14 wanted to run them, we might have had to shift,
15 if a particular product wasn't ready, started
16 later, started earlier, and the bad example
17 would be this idea around video.

18 You will see the GRPs, gross rating
19 points of what we are trying to accomplish, you
20 can see the mixes where we looked to optimize
21 so everything isn't a 30-second commercial. We
22 actually use 40s, 15s, and I don't know if it

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1 has it in this example, but six-second
2 commercials.

3 Q. And so did the flowcharts, you know,
4 as they are updated regularly throughout the
5 course of the year, do they accurately reflect
6 at that moment in time the amount of money
7 spent on a particular form of advertising as
8 reflected in the chart?

9 A. It's the plan of what we expect to
10 spend.

11 Q. So this is a plan, not actual?

12 A. Correct.

13 Q. And then let's go to the last
14 section of this document ending in Bates 75.

15 You see it is titled: "USPS account
16 hot sheet as of 4-20-2020"?

17 A. Yes.

18 Q. What is your understanding of what a
19 hot sheet is?

20 A. UM has used a hot sheet for the
21 postal service to give a synopsis of where we
22 are at and where we may need to be, if there's

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1 something already in place, will we still need
2 to approve or they need to still put things
3 together.

4 Q. Is it --

5 A. It ties to a variety of different
6 work that Universal McCann might be doing for
7 us. They have grouped it into our equity at
8 the top, equity is the big brand awareness
9 effort, and then subsets of that is tied to,
10 for example, our holiday campaign which is an
11 equity effort but it is a -- during the holiday
12 period, about six, maybe eight weeks.

13 We run into lead gen marketing
14 campaigns here. You'll see that we have other
15 things for political mail, political mail gives
16 us between 700 and 900 million dollars of
17 postage alone. Political mail is not a
18 product. It is a type of market if you will.

19 Q. Is it fair to say that the hot sheet
20 would represent, as of the date of it, the sort
21 of -- a summary of the work ongoing that
22 Universal McCann was performing on behalf of --

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1 on behalf of the postal service?

2 MR. RYAN: Objection as to form and
3 foundation.

4 THE WITNESS: This covers a number
5 of efforts that UM does for us and the status
6 of that work.

7 MS. GOODMAN: Okay. Let's go on a
8 break.

9 THE VIDEOGRAPHER: Going off the
10 record. The time is 16:47.

11 (A short recess was taken.)

12 THE VIDEOGRAPHER: Going back on the
13 record. The time is 16:54.

14 (Deposition Exhibit 44 was marked
15 for identification.)

16 BY MS. GOODMAN:

17 Q. Mr. Karpenko, I am handing you
18 USPS-ADS-42055 through 42181, marked Exhibit
19 44.

20 A. Thank you.

21 Q. And this is an e-mail you received
22 attaching an FY 2022 USPS DFA connect wrap up

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1 report, correct?

2 A. Yes.

3 Q. And what is a wrap up report to your
4 knowledge?

5 A. This wrap up report comes from
6 Universal McCann to give us an assessment of
7 how the variety of media performed for our
8 campaign or our messaging.

9 Q. And DFA, is that Delivering for
10 America, is that what that stands for?

11 A. It's tied to Delivering for America,
12 yes.

13 Q. And if you look to Page 4 of the
14 deck ending in Bates 60, this sets out the
15 measurement parameters and objectives for the
16 particular campaign, correct?

17 MR. RYAN: Objection. Form.

18 Also, the witness needs a few
19 minutes to look at the document.

20 MS. GOODMAN: I have allowed him
21 plenty of time to look at his documents, as you
22 know, Mr. Ryan.

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1 THE WITNESS: Yes. So Page 4 does
2 talk about the parameters that we provided for
3 UM so they understood what we were trying to
4 accomplish and then they validated again in the
5 -- in this deck.

6 BY MS. GOODMAN:

7 Q. And if you look at Page 6, this
8 slide shows the funds allocated across a
9 variety of media channels for this particular
10 campaign, correct?

11 MR. RYAN: Objection to form.

12 THE WITNESS: It shows the flight
13 dates, meaning in-market dates and the spend
14 that we had for -- for our media.

15 If you look at Page 5, we do show a
16 little bit of the channels in here.

17 THE VIDEOGRAPHER: Counsel, we were
18 just knocked off the Zoom. Do you want to go
19 off the record to reset up?

20 MS. GOODMAN: Sure.

21 THE VIDEOGRAPHER: Going off the
22 record. The time is 16:57.

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1 (A short recess was taken.)

2 THE VIDEOGRAPHER: Back on the
3 record. The time is 16:59.

4 BY MS. GOODMAN:

5 Q. Okay. So, Mr. Karpenko, we are
6 looking at Exhibit 44, Page 6, Bates ending in
7 62.

8 A. Yes.

9 Q. And so this shows the channel
10 through which this particular campaign USPS
11 advertised, correct?

12 MR. RYAN: Objection to form.

13 THE WITNESS: This was our campaign
14 that ran from the middle of February through
15 the end of the fiscal year for us, which ends
16 September 30.

17 BY MS. GOODMAN:

18 Q. And this shows the various channels
19 through which media was placed for this
20 campaign, right?

21 MR. RYAN: Objection to form.

22 THE WITNESS: This shows the

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1 return on ad spend for specific categories of
2 media after the all media column, correct?

3 MR. RYAN: Objection to form.
4 Foundation.

5 THE WITNESS: Could you say that
6 again.

7 BY MS. GOODMAN:

8 Q. You see here, there is an analysis
9 of a return on ad spend -- ad spend in the
10 categories of TV, search, display, social, OLV,
11 radio, audio and print, yes?

12 MR. RYAN: Objection to form.

13 THE WITNESS: Yes. It does not
14 include other media channels like our mail,
15 direct mail and such, but this is what the
16 investment is tied to UM's work with us.

17 BY MS. GOODMAN:

18 Q. And in the display category here,
19 are there particular -- are there more specific
20 channels of display advertising that are
21 comprised within this bucket?

22 MR. RYAN: Objection to form.

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1 THE WITNESS: Could you help clarify
2 for me.

3 BY MS. GOODMAN:

4 Q. Yes. Within display in this chart,
5 what kinds of display advertising are included
6 to your knowledge?

7 A. It would be the entire range of
8 display, whether that's static or programmatic
9 and anything else that might fall there.

10 Q. Would that include, for example, if
11 the U.S. Postal Service -- strike that.

12 Would that include an ad placed by
13 UM on NewYorkTimes.com, for example?

14 A. Most likely, yes.

15 Q. And you recall we saw a very lengthy
16 chart in Exhibit 36 in your stack of exhibits
17 that provided a list of third-party sites.

18 A. Yes.

19 Q. Would this category of display
20 include any ads placed on those third-party
21 sites?

22 A. It could.

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1 Q. Beyond the category of display
2 advertising, are you aware of any further --
3 more specific categories of display advertising
4 that comprise the entirety of the display
5 advertising channel?

6 MR. RYAN: Objection to form.

7 THE WITNESS: I'm not sure I
8 understand.

9 BY MS. GOODMAN:

10 Q. Yeah. It's not a great question.

11 A. Sorry.

12 Q. That's okay. What categories --
13 what specific categories of display advertising
14 comprise, from your point of view, the display
15 advertising channel? Is there any more
16 specificity, in other words, that you
17 understand the display advertising channel to
18 encompass?

19 A. In how the question is being asked,
20 I can't think of any.

21 Q. How often do you perform media
22 marketing methodology analyses?

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1 MR. RYAN: Objection to foundation.

2 THE WITNESS: I'm not sure.

3 BY MS. GOODMAN:

4 Q. Is it more than once a year that you
5 see these MMM kinds of analyses?

6 A. Yes. We have historically gone with
7 one large one, because it's a fairly large buy.
8 We can -- we can say with a reasonable level of
9 accuracy how our media will perform, based on
10 what we want to do for a campaign and we do
11 that because we have got some historical data
12 along with some pretty rigorous regression
13 analyses that we use, that allow us to say that
14 if we use X amount of media, we are -- plus or
15 minus, let's say hypothetically, 10 percent, we
16 know that we can be somewhat effective in that
17 world.

18 If we were to go from -- and let's
19 say there was a \$120 million media spend. If
20 we needed to cut something down to 110 or go up
21 to 130, we think we know where the abilities
22 are to be successful, because of the media mix

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1 modeling that we are able to do.

2 If you were to give me \$500 million,
3 it throws the media mix modeling analysis out
4 the window because it's -- it doesn't work well
5 for us. We don't historically spend that sort
6 of money and we -- we also would see different
7 levels of return potentially.

8 Q. Have you ever heard of the term
9 "open web display advertising"?

10 A. I have.

11 Q. Where have you heard that term?

12 A. I have heard it here.

13 Q. When you say "here," what do you
14 mean?

15 A. Here today.

16 Q. Okay.

17 A. I believe it's been referred to in
18 the complaint and it has been mentioned to some
19 degree in our marketing world.

20 Q. When you say "to some degree in our
21 marketing world," what do you mean?

22 A. Historically it's not a term that

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1 we -- we discuss. Even in some of these
2 documents that we have with UM, we don't --
3 don't refer to it as such.

4 Q. Do you have an understanding of what
5 the term "open web display advertising" means?

6 A. I believe so.

7 Q. What is your understanding of that
8 term?

9 A. It's the ability to place a content
10 or advertising on various web sites and do so
11 in an environment where you could do it
12 directly or have someone do it for you.

13 Q. And would it include placing
14 advertisements directly on The New York Times,
15 for example?

16 A. Possibly. I don't know off the top
17 of my head what The New York Times has as
18 parameters.

19 Q. So let's say The New York Times
20 wants to only do direct deals with an
21 advertiser. In such an instance, would you
22 consider those direct deals for ad space on The

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1 New York Times to be encompassed within the
2 category of open web display advertising?

3 MR. RYAN: Objection to form.

4 THE WITNESS: The stronger examples
5 for me would be eBay and Amazon.

6 BY MS. GOODMAN:

7 Q. And why is that?

8 A. Their -- we've had experience --
9 I've had personal experience with eBay and
10 Amazon and that they are closed. They do not
11 allow for others to come in to place
12 advertising with them. You have to -- it's
13 with them and only them.

14 So UM, as our supplier, would have
15 to deal directly with historically Amazon or
16 eBay for that sort of advertising.

17 Q. Okay. But so is the advertising
18 that postal service could place on eBay and
19 Amazon, is that -- does that constitute open
20 web display advertising from your point of
21 view?

22 A. It would not be.

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1 Q. How about with respect to
2 advertising that the United States Postal
3 Service could place on The New York Times?
4 Does that constitute open web display
5 advertising from your point of view in the
6 context of a direct deal whereby UM directly
7 negotiates with The New York Times?

8 MR. RYAN: Objection to form.

9 THE WITNESS: I would say possibly,
10 but I don't have intimate knowledge of The New
11 York Times.

12 BY MS. GOODMAN:

13 Q. Okay. So for purposes of my
14 hypothetical, let's assume that The New York
15 Times only allows ads to be placed on their
16 website through a direct deal as opposed to a
17 programmatic buying. Okay?

18 MR. RYAN: Objection as to form.

19 THE WITNESS: I think those are two
20 different things.

21 BY MS. GOODMAN:

22 Q. Right.

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1 A. When you talk about programmatic,
2 programmatic to me is that we place on -- on
3 sites and we serve up our advertising, our
4 marketing to a particular audience at a
5 particular time, and that you can do
6 programmatic multiple locations. That doesn't
7 exclude -- that's different than or at least I
8 am interpreting it as then the other part of
9 can you place an open web advertisement on The
10 New York Times versus not on The New York Times
11 directly.

12 Q. Okay.

13 A. I apologize. But that -- to me, I
14 am interpreting it very differently.

15 Q. Okay. That's fair.

16 So let's approach it this way: With
17 respect to the third-party sites on which
18 postal service ads may appear when they are
19 served with the aid of Matterkind?

20 A. Yes.

21 Q. Okay. Let's -- that's one kind of
22 mechanism to put out display ads on the web,

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1 yes?

2 MR. RYAN: Objection. Form.
3 Foundation.

4 THE WITNESS: Could be, yes.

5 BY MS. GOODMAN:

6 Q. Okay. In a scenario where we are
7 putting -- where the postal service is having
8 their ads placed on The New York Times website
9 not through the aid of Matterkind but rather UM
10 entering into a direct deal with The New York
11 Times, in such a scenario with The New York
12 Times that I am describe, do you consider that
13 to be open web display advertising?

14 MR. RYAN: Objection to form.
15 Foundation.

16 THE WITNESS: I do if New York Times
17 is -- is accepting advertising from others as
18 well. I think that's -- that's where I
19 would -- I would say yes if that's the case.

20 BY MS. GOODMAN:

21 Q. Okay. So earlier you said that open
22 web display advertising is -- is not a term

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1 that we discuss, and then some of the documents
2 that we have with UM, we don't refer to it as
3 such.

4 Do you recall that testimony?

5 MR. RYAN: Objection to form.

6 THE WITNESS: I recall saying that
7 earlier.

8 BY MS. GOODMAN:

9 Q. You recall it?

10 A. I recall saying it earlier, yes.

11 Q. Okay. And why do you not refer to
12 advertising in documents with UM as open web
13 display advertising?

14 MR. RYAN: Objection to form and
15 foundation.

16 THE WITNESS: Historically we at the
17 postal service, UM, and -- and others refer to
18 display as display and programmatic as
19 programmatic. We -- we have historically not
20 gotten I suppose down into those weeds of what
21 that means or how to use or how to gain access
22 into that world. It's probably done more with

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1 a publisher.

2 BY MS. GOODMAN:

3 Q. Okay. And you said "historically we
4 at the postal service, UM, and others refer to
5 display as display and programmatic."

6 Who are the others you are
7 considering in your answer?

8 A. Colleagues in the marketing
9 industry.

10 Q. And without -- you don't have to
11 name names for purposes of this question, but
12 just where are you -- what colleagues -- what
13 kinds of colleagues are you referring to in the
14 marketing industry in your answer?

15 A. It would be similar entities that
16 are tied to being members of the ANA, for
17 example.

18 Q. And so in any -- the postal service
19 is a member of the ANA; is that correct?

20 A. Yes.

21 MR. RYAN: Objection to form.

22 BY MS. GOODMAN:

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1 Q. And you participate in ANA events;
2 is that accurate?

3 MR. RYAN: Objection to form.

4 THE WITNESS: We participate in a
5 number of things with the ANA, yes.

6 BY MS. GOODMAN:

7 Q. And ANA is one of the sources that
8 you consider to be reliable with respect to
9 trends in the advertising industry; is that
10 correct?

11 MR. RYAN: Objection to form.

12 THE WITNESS: We'd have no reason
13 not to believe that ANA is -- is a legitimate
14 well thought of entity with a good reputation.

15 BY MS. GOODMAN:

16 Q. Can you recall any instance where
17 you have seen or heard the term open web
18 display advertising put out by the ANA?

19 A. I can't recall any. That doesn't
20 mean that they haven't.

21 Q. Same question with respect to Magna,
22 another source that we talked about earlier

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1 that you consider reliable. Have you seen the
2 term open web display advertising used by Magna
3 ever?

4 MR. RYAN: Objection to form.

5 THE WITNESS: If I have, it hasn't
6 triggered for me as something significant.

7 BY MS. GOODMAN:

8 Q. And I think you mentioned Adweek as
9 well. Same question as to Adweek.

10 MR. RYAN: Objection to form.

11 THE WITNESS: Similar answer. If
12 I -- if it was in a particular article that I
13 may or may not have read, it didn't -- didn't
14 spark or flag for me. Didn't pop out.

15 BY MS. GOODMAN:

16 Q. And it didn't pop out because it's
17 not a term that you use yourself as an
18 advertiser for the postal service; is that fair
19 to say?

20 MR. RYAN: Objection to form and
21 foundation.

22 THE WITNESS: I look at -- at

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1 display advertising as display advertising.

2 BY MS. GOODMAN:

3 Q. Now, earlier you also said you read
4 the complaint, correct --

5 A. I had --

6 Q. -- in this -- filed in this lawsuit?

7 A. Yes.

8 Q. Did you see the term open web
9 display advertising in the complaint?

10 A. Yes.

11 Q. Did you understand -- what did you
12 understand the term open web display
13 advertising to mean as used in the complaint?

14 A. As -- as defined --

15 MR. RYAN: Objection to form.

16 MS. GOODMAN: I am asking for his
17 understanding.

18 BY MS. GOODMAN:

19 Q. Go ahead.

20 A. As defined in the complaint?

21 Q. Yeah.

22 A. I would -- I believe it was what I

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1 had described earlier.

2 MS. GOODMAN: Okay. I am handing
3 you Exhibit 46, USPS-ADS-620144 through 145.

4 THE WITNESS: Thank you.

5 (Deposition Exhibit 46 was marked
6 for identification.)

7 BY MS. GOODMAN:

8 Q. And I know you're not here as a
9 recipient on this e-mail --

10 A. Uh-huh.

11 Q. -- but I would like you to review
12 it. Let me know when you've had a chance to
13 review it, and then I will ask you a question.

14 A. I've reviewed.

15 Q. Okay. In this e-mail -- does this
16 e-mail contain a discussion about shifting
17 advertising dollars from display -- sorry --
18 from social to display for the avoid surcharge
19 campaign?

20 MR. RYAN: Objection to foundation.

21 THE WITNESS: Laura Bacco wrote to
22 our postal person, Mike Bottenberg,

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1 recommending a shift.

2 BY MS. GOODMAN:

3 Q. And Mike recommends -- sorry. Mike
4 writes: "Hi, Laura. Let's make the shift into
5 display."

6 Do you see that?

7 A. Yes.

8 Q. And earlier we were talking about
9 campaign optimization. Do you recall that
10 testimony?

11 A. Yes.

12 Q. Is this an example of campaign
13 optimization?

14 A. This is an example of how one might
15 do that.

16 MS. GOODMAN: Okay. Can I get 35.
17 (Deposition Exhibit 47 was marked
18 for identification.)

19 MS. GOODMAN: I am handing you
20 USPS-ADS-29221 through 29226.

21 THE WITNESS: This one is done?

22 BY MS. GOODMAN:

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1 Q. Yes.

2 A. Thanks.

3 Q. And you see this is an e-mail you
4 received from Tiye McLeod at Universal McCann
5 on November 16, 2021, correct?

6 A. Yes.

7 Q. Okay. And the subject is: "Flash
8 POV Q3 Digital Earnings in Facebook's Rebrand."

9 Do you see that?

10 A. I do.

11 Q. What is a flash POV?

12 MR. RYAN: Objection to form.
13 Foundation.

14 THE WITNESS: UM has sent out these
15 quick sort of industry assessments or an FYI
16 with a point of view.

17 BY MS. GOODMAN:

18 Q. Okay.

19 A. In this particular case it's --
20 covered, you know, Quarter 3 digital earnings
21 in Facebook's rebrand.

22 Q. And if you look at the first bullet

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1 of "key takeaways," do you see where I am?

2 A. I do.

3 Q. It says: "The combined ad sales of
4 Google, Facebook, and Amazon, 80 percent of the
5 total U.S. digital ad market, reach 29.6
6 billion in 3Q21, a 40 percent growth versus
7 3Q20."

8 In this bullet what do you
9 understand the term "U.S. digital ad market" to
10 mean?

11 A. When I look at that, it's their
12 overall advertising on their sites.

13 Q. And --

14 A. Their sites and their products.

15 Q. Are there other digital -- are there
16 other providers within the U.S. digital ad
17 market that you're aware of?

18 A. Yes.

19 Q. And could you name any of those.

20 A. Matterkind would be an example in my
21 mind.

22 Q. From your point of view, would it be

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1 appropriate to break down the digital ad market
2 into any more specific categories?

3 MR. RYAN: Objection to the form.

4 THE WITNESS: When you say
5 "categories" for these, are we looking at -- so
6 you have Google, Facebook, Amazon. You
7 could -- one could argue or add in Target and
8 Walmart. They have their own digital ad space
9 that they use, their digital commerce space.

10 I guess could you help me -- help
11 clarify for me, I guess.

12 BY MS. GOODMAN:

13 Q. Sure. When you -- let me ask it
14 this way: When you think about where to spend
15 your digital advertising dollars, do you think
16 about -- do you approach that question with
17 respect -- by thinking about how to allocate
18 your funds across platforms such as Google,
19 Facebook, and Amazon?

20 MR. RYAN: Objection as to form.

21 THE WITNESS: We look at how to
22 place our media across all environments.

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1 Google, Facebook, and Amazon are large
2 entities. They have -- they have large
3 market -- large customer bases. But we are not
4 limited to those three.

5 I would note something like a
6 Snapchat we wouldn't use. We haven't --
7 haven't used. We're required to memorialize
8 our advertising, and Snapchat is designed to
9 put something up and make it go away. It
10 doesn't work for us under the federal umbrella.

11 THE COURT REPORTER: Under the
12 federal...?

13 THE WITNESS: Federal umbrella.
14 We're required to have records of things that
15 we do and retain those records.

16 BY MS. GOODMAN:

17 Q. And looking at this Exhibit 47 --

18 A. 47.

19 Q. -- do you consider this to be a
20 reliable summary of what's going on in the ad
21 industry as of the date of the e-mail?

22 MR. RYAN: Objection to foundation

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1 and form.

2 THE WITNESS: So it looks like Magna
3 provided the information. It provides a
4 snapshot of what some of these groups have
5 reported for -- for revenue or some
6 implications of where they have been year over
7 year. On the back Magna has applied
8 implications for various teams and brands.

9 I don't know if this makes a
10 difference for me at this point. You know,
11 nothing new about the three big partners
12 continue to grow their share of U.S. digital
13 advertising dollars.

14 Alphabet and Amazon are less
15 affected by the IOS changes due to the strength
16 of their search advertising business. So it
17 tells us some general information of where
18 they're at, and it keeps us apprised of the
19 pulse of where the big players are and where
20 their trends may be going that might adjust
21 within the marketplace.

22 MS. GOODMAN: Let's take a break.

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1 THE VIDEOGRAPHER: Going off the
2 record. The time is 17:51.

3 (A short recess was taken.)

4 THE VIDEOGRAPHER: Going back on the
5 record. The time is 18:09.

6 (Deposition Exhibit 48 was marked
7 for identification.)

8 MS. GOODMAN: Mr. Karpenko, I am
9 handing you USPS-ADS-447582 through 83, marked
10 Exhibit 48.

11 BY MS. GOODMAN:

12 Q. And this is also a document that
13 you're not on, but I would like you to read it,
14 and then I will ask you a few questions. So
15 let me know when you've had a chance to read
16 it.

17 A. Yes.

18 Q. Okay. And you see this is an e-mail
19 from an employee at Universal McCann to Brian
20 Pasco, correct?

21 A. Yes.

22 MR. RYAN: Objection. Form.

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1 BY MS. GOODMAN:

2 Q. Okay. And he writes to Brian that
3 Matterkind has been running into scale issues
4 through DV360, so they optimized by moving over
5 DSPs into TTD.

6 Do you see that?

7 A. I do.

8 Q. What is your understanding of what
9 Mr. Lockhart is describing here?

10 A. Well, the subject is tied to our
11 spring digital video for the Hispanic market.

12 And as far as scale issues running
13 through a particular tool, I don't know the
14 particulars to that, and I don't know if Brian
15 had additional correspondence with him over it,
16 but this is another example of us trying to
17 optimize our -- our media.

18 Q. And in this particular example, are
19 you optimizing your media by moving from DV360
20 into TTD?

21 MR. RYAN: Objection to foundation
22 and form.

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1 THE WITNESS: I'm not familiar with
2 the TTD, so I don't know if I would be able to
3 answer well enough about context about this.

4 BY MS. GOODMAN:

5 Q. Okay. Have you heard of The Trade
6 Desk?

7 A. Yes.

8 Q. What is The Trade Desk?

9 A. Trade desk is another entity that
10 helps place advertising.

11 Q. And you see here the reference to
12 DV360. What is your understanding of DV360?

13 A. DV360 is a Google tool that is used
14 for placing advertising.

15 Q. And so is it fair to say that Mr.
16 Lockhart here is reporting that Matterkind ran
17 into scale issues with the Google tool DV360
18 and so they moved over into The Trade Desk --

19 MR. RYAN: Objection --

20 BY MS. GOODMAN:

21 Q. -- TTD?

22 MR. RYAN: Objection to form and

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1 foundation.

2 THE WITNESS: I'm not sure.

3 BY MS. GOODMAN:

4 Q. Okay. Do you know what DSP stands
5 for here?

6 MR. RYAN: Objection to foundation.

7 THE WITNESS: I don't.

8 BY MS. GOODMAN:

9 Q. Okay. You can put that to the side.

10 A. Thank you.

11 Q. At some point you decided to do an
12 audit of Universal McCann; is that accurate?

13 A. Yes.

14 MR. RYAN: Objection to form.

15 BY MS. GOODMAN:

16 Q. And why did you decide to do an
17 audit of Universal McCann?

18 A. As part of our due diligence.

19 Q. And how did you go about selecting
20 the auditor for this project?

21 A. We were trying to do this a number
22 of ways. First attempt was to put it out for

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1 RFP. It came back to us fairly expensive.
2 The -- I think there was maybe only one that
3 responded.

4 And because it was a seven-figure
5 fee, it's fairly significant, not our --
6 against our media budget. We did not award
7 because it did not -- didn't make it cost
8 effective for us to do.

9 We did a follow-up after an OIG
10 discussion. OIG wanted to understand how we
11 purchased media and how effective it would be.
12 So I have had -- in essence, there's a couple
13 steps here, but I'll say larger how do we
14 validate media spend through an audit group.
15 It was super expensive, wasn't cost effective
16 for us, limited entity to do it.

17 The second one was the Office of the
18 Inspector General across the river from us in
19 Rosslyn came over and asked us how we assess
20 and evaluate the success of and effectiveness
21 of our media spend, which we provided data to
22 them. We worked with them. We provided our --

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1 our UM investment teams and analysts to work
2 with the OIG's team of analysts to validate our
3 investment was -- was solid.

4 That passed through a number of
5 processes, which was great. Their
6 recommendation was that we should also, again,
7 try to have a third party validate the media
8 spend.

9 Our third phase in that was to look
10 at whether or not there were other companies
11 that had done similar audits within UM,
12 Universal McCann. There were one or two
13 companies that did that. We looked at both of
14 them. And we did it -- we did an analysis with
15 one of those companies. We -- we contracted
16 with one of those companies to do that.

17 Q. And was that company DG2?

18 A. I am -- I do not remember the name
19 of the company. I apologize.

20 Q. Okay. That's okay.

21 And the company that you ended up
22 selecting for purposes of this audit, did you

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1 THE WITNESS: As I flip through it,
2 I am not seeing that. I do see labor rates for
3 the -- for the staffing, but I don't see any
4 specific thing that we put in for pricing
5 tagged to media.

6 BY MS. GOODMAN:

7 Q. And if you turn the page ending in
8 Bates 187.

9 At the top, it says: "Attachment,
10 one final statement of work."

11 MR. RYAN: Do we have that?

12 THE WITNESS: You said 187? I end
13 up at 186.

14 BY MS. GOODMAN:

15 Q. Okay. I think we are missing an
16 attachment then. All right. No worries.

17 A. Okay.

18 Q. You can put that to the side.

19 A. Okay.

20 MS. GOODMAN: Can I get 78.

21 (Deposition Exhibit 51 was marked
22 for identification.)

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1 BY MS. GOODMAN:

2 Q. I am handing you USPS-ADS-529380
3 through 529412. I have marked it as Exhibit --

4 A. 51.

5 Q. -- 51.

6 A. 5-1.

7 Q. And this is the Base Year 2.1
8 contract between the postal service and
9 Universal McCann, correct?

10 MR. RYAN: Objection to form.

11 THE WITNESS: Yes.

12 BY MS. GOODMAN:

13 Q. And you see at the back -- at the
14 top, Box 4, it lists a master contract number.

15 Do you see that?

16 A. Yes.

17 Q. Okay. Does that match the contract
18 number in Exhibit 50 reflected in Box 18?

19 MR. RYAN: Objection to form.

20 THE WITNESS: Yes.

21 BY MS. GOODMAN:

22 Q. Okay. So this is sort of a one

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1 year, the Base Year 2.1 for one year of
2 services under that master contract we looked
3 at?

4 A. Box 4 of Exhibit 51 matches the same
5 contract number in Box 18.

6 Q. Okay. Great.

7 A. Box 18 in Exhibit 51 has the C on it
8 instead of a B. There is a differentiation
9 there just to --

10 Q. Got it. And in this contract,
11 looking on Page 529382, there is a -- Line Item
12 1 is media purchased on behalf of the postal
13 service.

14 Do you see that?

15 A. I do.

16 Q. And it does not fix a quantity or a
17 unit in Columns 19 or 20, correct?

18 MR. RYAN: Objection to form.

19 THE WITNESS: It does not.

20 BY MS. GOODMAN:

21 Q. And then if you go back to Page 381,
22 just the prior page, and it says -- sort of in

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1 the middle there, Line Item 1 is the
2 out-of-pocket costs that the supplier may incur
3 on behalf of the USPS and media purchases.

4 Do you see that?

5 A. Not yet.

6 I see it now, yes.

7 Q. Okay. And so -- and then the next
8 sentence says: "The not-to-exceed amount for
9 the out-of-pocket costs is \$127 million."

10 A. Yes.

11 Q. Okay. And so this contract sets a
12 ceiling of \$127 million but does not commit the
13 postal service to actually make any particular
14 media buys; is that correct?

15 MR. RYAN: Objection to form and
16 foundation.

17 THE WITNESS: I believe the contract
18 somewhere earlier says there is a minimum that
19 we potentially would owe the supplier and a max
20 over the term of the entire contract.

21 BY MS. GOODMAN:

22 Q. Okay. But at least this particular

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1 provision does not commit the postal service
2 to, in fact, spend \$127 million on media buys,
3 correct?

4 A. Correct.

5 MR. RYAN: Objection to form and
6 foundation.

7 BY MS. GOODMAN:

8 Q. Okay. And if you flip to Page 388,
9 do you see that this is attaching -- or
10 including within this contract, the UM SOW
11 contract year 2022.

12 Do you see that?

13 A. Yes, that's the Universal McCann
14 statement of work, contract year 2022.

15 Q. And is it accurate to say that the
16 statement of work in the subsequent pages
17 outlines the work that Universal McCann would
18 perform in this contract year on behalf of the
19 postal service?

20 MR. RYAN: Objection to form.

21 THE WITNESS: Yes.

22 BY MS. GOODMAN:

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1 Q. And if you turn to page ending in
2 11411.

3 A. 11411.

4 Q. Under Item 4: "Addressable
5 technology."

6 Do you see where I am?

7 A. Yes.

8 Q. Do you know what Kinesso is in 4A?

9 A. Kinesso is another group that UM has
10 used for our marketing efforts.

11 Q. And are they similar to Matterkind?

12 MR. RYAN: Objection to form.

13 THE WITNESS: Similar in the sense
14 that they are another entity that UM works with
15 us to help place media for our effectiveness.

16 BY MS. GOODMAN:

17 Q. And in No. 5 where it says:
18 "Private marketplace curation and management,"
19 what is that a reference to, to your knowledge?

20 A. I don't know.

21 Q. Okay. And if we go -- I'm sorry.

22 If we turn back to Page 390 in the

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1 chart here where the columns are: "Assumed
2 efforts, assumed media channels," and assume
3 spend -- "assumed spend."

4 Does this chart reflect at a high
5 level the plans that the postal service had
6 with respect to advertising efforts for this
7 particular contract year?

8 MR. RYAN: Objection to form.

9 THE WITNESS: This is more a
10 guidance than an estimate. We would be firming
11 up our campaigns and budget later in the year.

12 BY MS. GOODMAN:

13 Q. And under the column: "Assumed
14 media channels," do you see anywhere listed on
15 Pages 390, 391 or 392, open web display?

16 A. No.

17 Q. You can put that to the side.

18 With respect to United States Postal
19 Service's digital advertising efforts, did the
20 postal service purchase any display advertising
21 directly from Google to your knowledge?

22 A. Not to my knowledge.

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1 Q. And did the postal service purchase
2 any open web display advertising directly from
3 Google?

4 A. Not to my knowledge.

5 Q. Did the postal service pay Google
6 directly for the use of DV360 to your
7 knowledge?

8 MR. RYAN: Objection to foundation.

9 THE WITNESS: I don't know if the
10 postal service paid for access to use Google's
11 DV360 tool.

12 BY MS. GOODMAN:

13 Q. To your knowledge, did the postal
14 service pay Google directly for the use of
15 Google ads?

16 MR. RYAN: Objection to foundation.

17 THE WITNESS: I'm unaware of us
18 paying for any Google ads from the postal
19 service.

20 BY MS. GOODMAN:

21 Q. To your knowledge and in your
22 capacity as the executive director for brand

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1 marketing from 2019 to 2023 time period, did
2 the postal service purchase any ad tech
3 services directly from Google?

4 MR. RYAN: Objection to form and
5 foundation.

6 THE WITNESS: I'm unaware of the
7 postal service purchasing any ad tech services
8 from Google.

9 BY MS. GOODMAN:

10 Q. And are you unaware of the postal
11 service purchasing any ad tech services
12 directly from Google?

13 MR. RYAN: Objection to form and
14 foundation.

15 THE WITNESS: I am not aware of it.

16 BY MS. GOODMAN:

17 Q. Are you aware of any contract
18 between the United States Postal Service and
19 Google related to digital advertising?

20 A. Not to digital advertising.

21 Q. Do you know whether any money has
22 been paid to Google through any contract

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1 between the postal service and Universal
2 McCann?

3 MR. RYAN: Objection to form and
4 foundation.

5 THE WITNESS: Can you repeat that
6 again.

7 BY MS. GOODMAN:

8 Q. Do you know whether any money has
9 been paid to Google through funds awarded under
10 the contract between the postal service and
11 Universal McCann?

12 MR. RYAN: I'll repeat the
13 objection.

14 THE WITNESS: Yes.

15 BY MS. GOODMAN:

16 Q. Okay. And how do you know that
17 money has been paid to Google through those
18 funds?

19 A. For example, we spend multiple
20 millions of dollars on paid search through
21 Google.

22 Q. And if you were -- how would you

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1 figure out how much money has been paid to
2 Google under the UM USPS contract?

3 MR. RYAN: Objection to foundation
4 and form.

5 THE WITNESS: We at least have
6 visibility on investment that we have asked UM
7 to pay or to use for media, the big one is
8 Google Search. If there are others, it would
9 be a bit more in the weeds and I don't have
10 that visibility.

11 BY MS. GOODMAN:

12 Q. And does anybody, to your knowledge,
13 in the postal service have that visibility?

14 A. I don't believe so.

15 Q. Okay. Earlier, we were talking
16 about how the postal service helps connect
17 brands with customers, correct?

18 MR. RYAN: Objection to form.

19 THE WITNESS: Yes.

20 BY MS. GOODMAN:

21 Q. And does Google also help connect
22 brands with their customers?

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1 MR. RYAN: Objection to foundation
2 and form.

3 THE WITNESS: Google is an
4 organization that offers up a number of
5 products and services that help customers --
6 and reach customers in a variety of ways.

7 BY MS. GOODMAN:

8 Q. The U.S. Postal Service is also an
9 organization that offers up a number of
10 products and services that help businesses
11 reach customers in a variety of ways; is that
12 accurate?

13 MR. RYAN: Objection to form.

14 THE WITNESS: There is value to
15 both.

16 BY MS. GOODMAN:

17 Q. But it is true that the postal
18 service is also an organization that offers up
19 a number of products and services that help
20 businesses reach customers in a variety of
21 ways?

22 MR. RYAN: Objection to form.

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1 THE WITNESS: Yes, with probably
2 some -- some caveats in that.

3 BY MS. GOODMAN:

4 Q. Okay. And so with respect to
5 helping businesses reach their customers, does
6 the postal service compete with Google?

7 MR. RYAN: Objection to form and
8 foundation.

9 THE WITNESS: I think they offer
10 different products and services.

11 BY MS. GOODMAN:

12 Q. So is your answer no, that the
13 postal service does not compete with Google
14 with respect to helping businesses reach their
15 customers?

16 MR. RYAN: Objection to form and
17 foundation.

18 THE WITNESS: Probably depends on
19 what the customers are wanting or looking for.
20 They have similar approaches. The postal
21 service has the ability to offer products and
22 services, but doesn't limit who can enter in

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1 utilizing those products and services, so you
2 could do it as an individual or you could do it
3 as a -- you could have an entity or business do
4 it for you. Google has products and services
5 that you could do something as an individual
6 potentially, or you are required to use
7 particular -- potential products and tools to
8 be able to accomplish what you need to for
9 them.

10 BY MS. GOODMAN:

11 Q. So is it at least fair to say that
12 the postal service provides a way for customers
13 -- businesses to reach their customers that is
14 complementary to services that Google offers
15 businesses in order to reach their customers?

16 MR. RYAN: Objection to form and
17 foundation.

18 THE WITNESS: I think both entities
19 have value to them and Google has provided
20 value to customers.

21 BY MS. GOODMAN:

22 Q. And has Google provided value to the

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1 United States Postal Service from your point of
2 view?

3 A. We have used Google because they do
4 provide a value for the postal service for
5 certain efforts that we are trying to make.

6 Q. Okay.

7 MS. GOODMAN: We can take a break.

8 THE VIDEOGRAPHER: Going off the
9 record. The time is 18:50.

10 (A short recess was taken.)

11 THE VIDEOGRAPHER: Going back on the
12 record. The time is 19:01.

13 MS. GOODMAN: For the record, I am
14 ripping off the cover e-mail to Exhibit 36,
15 handing it to opposing counsel since he clawed
16 it back and marking the attachment as 36B. I
17 will just hand that to the witness but I don't
18 have any questions about it.

19 (Deposition Exhibit 36B was marked
20 for identification.)

21 BY MS. GOODMAN:

22 Q. Mr. Karpenko, have you had any

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1 conversations with Brian Pasco about this
2 lawsuit?

3 A. Brian worked for me, and yes, I did
4 have conversations about the information.

5 Q. Subsequent to Brian Pasco leaving
6 the postal service, have you had any
7 conversations with him about this lawsuit?

8 A. I have not spoken to Brian since he
9 left.

10 Q. And so what conversations have you
11 had with -- did you have with Brian while he
12 was still at the postal service with respect to
13 this lawsuit?

14 A. To provide any information that
15 might be needed.

16 Q. Did he provide you any information?

17 A. He gathered up -- in general, he
18 gathered up all of his information because he
19 was leaving and he put it on a share drive.

20 Q. And was that for purposes of this
21 lawsuit or because it's a records management?

22 A. Both.

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Sean Carman

sean.carman@usdoj.gov

August 11, 2023

RE: United States, Et Al v. Google, LLC

8/10/2023, Christopher Karpenko (#6031969)

The above-referenced transcript is available for review.

Within the applicable timeframe, the witness should read the testimony to verify its accuracy. If there are any changes, the witness should note those with the reason, on the attached Errata Sheet.

The witness should sign the Acknowledgment of Deponent and Errata and return to the deposing attorney. Copies should be sent to all counsel, and to Veritext at erratas-cs@veritext.com.

Return completed errata within 30 days from receipt of testimony.

If the witness fails to do so within the time allotted, the transcript may be used as if signed.

Yours,

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United States, Et Al v. Google, LLC

Christopher Karpenko (#6031969)

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Christopher Karpenko

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United States, Et Al v. Google, LLC

Christopher Karpenko (#6031969)

ACKNOWLEDGEMENT OF DEPONENT

I, Christopher Karpenko, do hereby declare that I have read the foregoing transcript, I have made any corrections, additions, or changes I deemed necessary as noted above to be appended hereto, and that the same is a true, correct and complete transcript of the testimony given by me.

Christopher Karpenko

Date

*If notary is required

SUBSCRIBED AND SWORN TO BEFORE ME THIS

_____ DAY OF _____, 20____.

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[& - 2.1]

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